

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:22-CV-15-FL**

ROBERT TERRACINO and
BRADIE TERRACINO,

Plaintiffs,

v.

TRIMACO, INC.,

Defendant.

**DEFENDANT'S REQUESTS FOR PRODUCTION
RELEVANT TO CLAIM CONSTRUCTION**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Trimaco, Inc. ("Defendant"), by and through the undersigned counsel, requests that Plaintiffs Robert and Bradie Terracino ("Plaintiffs") respond in writing to these Requests for Production Relevant to Claim Construction ("First Requests") and produce the requested Documents and Things at the offices of Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204, or at another mutually agreed upon location, within thirty (30) days of service.

DEFINITIONS

As used herein, unless specified otherwise, the terms below shall be defined as follows. Insofar as a term is not explicitly defined, the meaning to be used is the commonly accepted definition of the term in the context of the request with the understanding that each word, term, or phrase used in these Requests is intended to have the broadest possible meaning under the Federal Rules of Civil Procedure. In these Requests, the following terms are to be given their ascribed definitions.

1. “Plaintiffs,” “Terracinos,” “You,” and “Your” refer to Robert Terracino and Bradie Terracino, and all of their agents, officers, directors, employees, partners, affiliates, subcontractors, advisors, and assigns, if any.

2. “Defendant” and “Trimaco” refer to Trimaco, Inc.

3. “Patent-in-Suit,” “’917 Patent,” and “Asserted Patent” each refer to U.S. Patent No. 9,044,917.

4. “Asserted Claims” or “Asserted Patent Claims” refer to any or all of Claims 1-10 of the Patent-in-Suit.

5. “Accused Product(s)” refers to Trimaco’s “Stay Put” and “Stay Put Plus”© canvas drop cloths.

6. “Date(s)” refers to the exact day(s), month(s), and year(s), if known or ascertainable. If the exact day, month, and year are not known or ascertainable, provide the best approximation thereof and identify such date as an approximation.

7. “Including” means “including but not limited to,” and “includes” means “includes but is not limited to.”

8. “Thing(s)” refers to any tangible object that is not a Document, and includes objects of every kind and nature such as, but not limited to finished products, products in development, prototypes, product components, mark-ups, devices, and models.

INSTRUCTIONS

The following instructions apply to the requests below and should be considered part of each such request.

Each request shall be answered fully unless it is objected to in good faith, in which event the reasons for Your objection shall be stated in detail. If an objection pertains to only a portion

of a request or a word, phrase, or clause contained within it, You are required to state Your objection to that portion only and to respond to the remainder of the request, using Your best efforts to do so.

1. These Requests seek all responsive Documents and Things within the possession, custody, or control of Plaintiffs (as defined above).

2. These requests are continuing in nature and Your responses to them are to be promptly supplemented or amended if, after the time of Your initial responses, You learn that any response is or has become, in some material respect, incomplete or incorrect, to the full extent provided for by Fed. R. Civ. P. 26(e).

3. Each Request shall be construed to include any Documents or other information that is/are later created or discovered.

4. Words that designate Persons in a masculine or feminine form refer to Persons of either gender.

5. Each Request for Production of a Document or Documents shall be deemed to call for the production of the original Document or Documents, to the extent that they are within the possession, custody, or control of Plaintiffs. In addition, each Request should be considered as including all copies and, to the extent applicable, preliminary drafts of Documents which, as to content, differ in any respect from the original or final draft or from each other (including by way of example only, by reason of handwritten notes or comments having been added to one copy of a Document but not on the original or other copies thereof).

6. If any Document requested herein was at one time in existence, but has been lost, discarded, or destroyed, identify each such Document and provide the following information in the written response designating each Document that cannot be produced:

- a. the Date it was lost, discarded, or destroyed;
- b. the circumstances and manner in which it was lost, discarded, or destroyed;
- c. the reason or reasons for disposal of the Document (if discarded or destroyed);
- d. the identity of all Persons authorizing or having knowledge of the circumstances surrounding the disposal of the Document;
- e. the identity of the Persons(s) who lost, discarded, or destroyed the Document; and
- f. the identity of all Persons having knowledge of the contents thereof.

7. If You assert that any information responsive to any request is privileged or otherwise protected from discovery, You are requested to comply with the requirements of Fed. R. Civ. P. 26(b)(5) as to each document, thing, oral communication, or piece of information for which a claim of privilege or protection from discovery is made. For any document or information withheld on the grounds that it is privileged or otherwise claimed to be excludable from discovery, identify the information or document, describe its subject matter and date, identify all authors and all recipients (including copied and blind copied recipients), and specify a basis for the claimed privilege or other grounds of exclusion.

REQUESTS FOR PRODUCTION

Request No. 1. Produce all Documents and Things concerning the '917 Patent, including all Documents related to the claim interpretation of, or the assessment of the scope, infringement, validity, or enforceability of the Asserted Claims of the '917 Patent.

Request No. 2. Produce all Documents constituting or concerning any opinion or draft opinions, assessments, or evaluations made by You or on Your behalf, whether written or oral, relating to the scope, claim interpretation, infringement, validity, or enforceability of the Asserted Claims of the '917 Patent, and including but not limited to any such documents related to Docket Entry 1-8, dated January 7, 2022.

Request No. 3. Produce all Documents relating to any patent search conducted by You or on Your behalf relating to the patentability of the '917 Patent.

Request No. 4. Produce all Documents and Things concerning any research, testing, analysis, or evaluation performed in connection with any Accused Product by You or on Your behalf, including but not limited to, any measurements, test results, correspondence, or research reports, including any documents that support an allegation of infringement by the Accused Products.

Request No. 5. Produce all Documents sufficient to show Your past and current policies regarding document retention and/or destruction.

Dated: August 24, 2023

/s/ John M. Moya
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**by special appearance*

***special appearance forthcoming*

Counsel for Defendant Trimaco, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2023, a true and correct copy of the foregoing TRIMACO, INC.'S REQUESTS FOR PRODUCTION RELEVANT TO CLAIM CONSTRUCTION was served electronically upon the following counsel of record for Plaintiffs:

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